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## IN SECURITY CASES

# Justice tries for semi-secret trials

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WASHINGTON

More than a year has passed since the Justice Department successfully insisted that all potentially dangerous information in the Pentagon papers be disclosed only in secret court hearings or in sealed exhibits.

By now, of course, the Pentagon papers have been read and computerized by every spy and counter-spy agency from London to Hanoi.

BUT DESPITE this worldwide publication of the specific information which the government claimed was a threat to the "national security," the government's evidence remains a secret and the Justice Department has made at least two furth-

er attempts to conduct partially secret public trials.

The first attempt, which has been successful so far, involves a law suit by the Central Intelligence Agency seeking to stop a former CIA agent from publishing a book which allegedly would endanger the national security.

The former agent, Victor Marchetti, had worked for the CIA from 1955 to 1969. He has published a novel, "The Rope Dancer," and has been frequently interviewed by radio, television and news reporters.

THE GOVERNMENT obtained an injunction against a non-fiction book Marchetti planned to publish by presenting secret exhibits claiming that publication would pose a "grave and irreparable injury" to the

national defense interests of the United States."

But unlike the Pentagon papers case, where lawyers for the New York Times and the Washington Post were at least permitted to see the government's evidence, in the CIA case, both Marchetti and his attorney were initially denied access to the sealed exhibits.

Later, the government permitted the defense to read its evidence but refused to permit several defense witnesses — including a professor who had visited North Vietnam — to see the exhibits.

The government also objected to permitting Marchetti's attorneys to examine the secret transcripts of the Pentagon papers case.

SEVERAL WEEKS after the Marchetti case was ap-

pealed to the Supreme Court, Daniel Ellsberg and his co-defendant, Anthony Russo, were brought to trial in Los Angeles on charges of conspiring to violate the espionage act and of stealing government information.

The Justice Department and the defense agreed that the jury should have copies of the entire Pentagon papers. But the government objected to making the four-volume diplomatic history part of the public record. It asked that this evidence be kept secret from the public and the press.

THE JUDGE, W. Matthew Byrne Jr., denied the secrecy request, ruling that in a "public trial" all the evidence must be public.

tried a second secrecy ploy

at the Ellsberg trial by attempting to hide from the defendant and the public a government submission to the court containing the logs of wiretapped conversations of one of Ellsberg's attorneys.

When the defense discovered that the log even existed, the Justice Department refused to name the attorney and refused to show him his own conversation — an issue which caused Justice William O. Douglas to stop the trial.

Thus, when the Supreme Court convenes this October, it will have two opportunities to confirm the right of the public and the press to inspect all the evidence at a public trial or to follow the Justice Department's theories and begin to restrict the public's access to judicial proceedings.